HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No. 86 of 2006

Between:

N. Yaka Lakshmi and another

…Appellants.

And

Nagavelli Sammaiah and others.

…Respondents.

:: ORDER::

Counsel for the appellants : Mr. A. Prabhakar Rao

Counsel for respondent No.1 : Mr. Ch. Ravinder

Counsel for respondent Nos 2 to 4: G.P. for Assignment

January 30, 2006

Per G.S. Singhvi, CJ.

This appeal is directed against order dated 17.11.2005 passed by the learned Single Judge in Writ Petition No. 24020 of 2005 whereby he directed Revenue Divisional Officer, Warangal to execute/implement order dated 5.6.2002 passed by Special Tribunal, Warangal in L.G.C. No. 3 of 2000.

The appellants have challenged the order of the learned Single Judge on the ground of violation of the rules of natural justice by contending that even though they are the persons who will be adversely affected by implementation/execution of order dated 5.6.2002 passed by Special Tribunal, Warangal, the respondent No.1 did not implead them as parties to the writ petition and persuaded the learned Single Judge to give the impugned direction at their back.

Learned counsel for respondent No.1 fairly states that order dated 15.6.2002 passed by the Special Tribunal, Warangal was for eviction of the appellants but submitted that the order under challenge may not be disturbed because the appellants did not take any step to challenge the order of the Special Tribunal.

In our opinion, even though the appellants may not have challenged order dated 5.6.2002 passed by Special Tribunal, Warangal in L.G.C. 3 of 2000 but they were certainly necessary parties to the writ petition filed by the respondents for execution/implementation of the order of the Special Tribunal and, therefore, it was the bounden duty of the respondent No.1 to implead them as respondents.

It appears to us that attention of the learned Single Judge was not drawn by the official respondents that implementation/execution of the order passed by the Special Tribunal will adversely affect the interest of the occupiers and, therefore, they were entitled to be heard and this is the reason why the order under

challenge was made at the back of the appellants.

Be that as it may, we are convinced that the order passed by the learned Single Judge is liable to be set aside on the ground that it was passed without hearing the persons who would be directly affected by implementation/execution of order dated 5.6.2002 passed by Special Tribunal, Warangal.

In the result, the appeal is allowed. The order of the learned Single Judge is set aside and Writ Petition No.24020 of 2005 is restored to the board of the learned Single Judge.

The appellants shall file counter affidavit within three weeks from today. The writ petitioner shall take steps to implead the present appellants and others against whom order dated 5.6.2002 was passed by Special Tribunal, Warangal. After service of notice on the remaining added respondents, the writ petitioner may move the learned Single Judge for early hearing of the writ petition. Till the writ petition is decided afresh, status of the disputed site, as obtaining today, shall be maintained by all the parties.

G.S. SINGHVI, C.J.

G. BHAVANI PRASAD, J.

January 30, 2006.

MVB.